

“FEDERAL LAND ASSISTANCE, MANAGEMENT AND
ENHANCEMENT ACT” OR “FLAME ACT”

JUNE 10, 2008.—Ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5541]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5541) to provide a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Federal Land Assistance, Management and Enhancement Act” or “FLAME Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Flame Fund for catastrophic emergency wildland fire suppression activities.

Sec. 3. Cohesive wildland fire management strategy.

Sec. 4. Review of certain wildfires to evaluate cost containment in wildland fire suppression activities.

Sec. 5. Reducing risk of wildfires in fire-ready communities.

SEC. 2. FLAME FUND FOR CATASTROPHIC EMERGENCY WILDLAND FIRE SUPPRESSION ACTIVITIES.

(a) **DEFINITIONS.**—In this section:

(1) **FEDERAL LAND.**—The term “Federal land” means the following:

- (A) Public lands, as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).
- (B) Units of the National Park System.
- (C) Refuges of the National Wildlife Refuge System.
- (D) Lands held in trust by the United States for the benefit of Indian tribes or individual Indians.
- (E) Lands in the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).
- (2) FLAME FUND.—The term “Flame Fund” means the Federal Land Assistance, Management, and Enhancement Fund established by this section.
- (3) SECRETARY CONCERNED.—The term “Secretary concerned” means—
 - (A) the Secretary of the Interior, with respect to Federal land described in subparagraphs (A), (B), (C), and (D) of paragraph (1); and
 - (B) the Secretary of Agriculture, with respect to National Forest System land.
- (4) SECRETARIES.—The term “Secretaries” means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.
- (b) ESTABLISHMENT AND AVAILABILITY OF FLAME FUND.—
 - (1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Federal Land Assistance, Management, and Enhancement Fund.
 - (2) CONTENTS.—The Flame Fund shall consist of the following amounts:
 - (A) Amounts appropriated to the Flame Fund pursuant to the authorization of appropriations in subsection (c).
 - (B) Amounts transferred to the Flame Fund pursuant to subsection (d).
 - (3) AVAILABILITY.—Subject to subsection (e), amounts in the Flame Fund shall be available to the Secretaries to pay the costs of catastrophic emergency wildland fire suppression activities that are separate from amounts annually appropriated to the Secretaries for the predicted annual workload for wildland fire suppression activities, based on analyses of historical workloads and anticipated increased workloads due to changing environmental or demographic conditions.
- (c) AUTHORIZATION OF APPROPRIATIONS.—
 - (1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Flame Fund such funds as may be necessary to carry out this section. It is the intent of Congress that the amount appropriated to the Flame Fund for fiscal year 2009 and each subsequent fiscal year equal the average amount expended by the Secretaries for emergency wildland fire suppression activities over the five fiscal years preceding that fiscal year.
 - (2) EMERGENCY DESIGNATION.—Amounts appropriated to the Flame Fund for fiscal year 2009 are designated as an emergency requirement pursuant to section 501 of H. Con. Res. 376 (109th Congress), as made applicable to the House of Representatives by section 511(a)(4) of H. Res. 6 (110th Congress), and for subsequent fiscal years pursuant to corresponding congressional resolutions authorizing the designation of emergency spending.
 - (3) NOTICE OF INSUFFICIENT FUNDS.—The Secretaries shall notify the congressional committees specified in subsection (h)(2) whenever only an estimated two months worth of funding remains in the Flame Fund.
- (d) TRANSFER OF EXCESS WILDLAND FIRE SUPPRESSION AMOUNTS INTO FLAME FUND.—At the end of each fiscal year, the Secretary concerned shall transfer to the Flame Fund amounts appropriated to the Secretary concerned for wildland fire suppression activities for the fiscal year, but not obligated for wildland fire suppression activities before the end of the fiscal year.
- (e) USE OF FLAME FUND.—
 - (1) DECLARATION REQUIRED.—Amounts in the Flame Fund shall be made available to the Secretary concerned only after the Secretaries issue a declaration that a wildland fire suppression activity is eligible for funding through the Flame Fund.
 - (2) DECLARATION CRITERIA.—A declaration by the Secretaries under paragraph (1) shall be based on the following criteria:
 - (A) In the case of an individual wildland fire incident—
 - (i) the fire covers 300 or more acres;
 - (ii) the severity of the fire, which may be based on incident complexity or the potential for increased complexity; and
 - (iii) the threat posed by the fire, including the potential for loss of lives, property, or critical resources.
 - (B) Consistent with subsection (f), in the case of a firefighting season, cumulative wildland fire suppression activities, when the costs of those activi-

ties for the Secretary concerned are projected to exceed amounts annually appropriated.

(3) **TRANSFER OF AMOUNTS TO SECRETARY CONCERNED.**—After issuance of a declaration under paragraph (1) and upon the request of the Secretary concerned, the Secretary of the Treasury shall transfer from the Flame Fund to the Secretary concerned such amounts as the Secretaries determine are necessary for wildland fire suppression activities associated with the declared suppression emergency.

(4) **STATE, PRIVATE, AND TRIBAL LAND.**—Use of the Flame Fund for catastrophic emergency wildland fire suppression activities on State and private land and, where applicable, tribal land shall be consistent with existing agreements where the Secretaries have agreed to assume responsibility for wildland fire suppression activities on the land.

(f) **TREATMENT OF ANTICIPATED AND PREDICTED ACTIVITIES.**—The Secretary concerned shall continue to fund anticipated and predicted wildland fire suppression activities within the appropriate agency budget for each fiscal year. Use of the additional funding made available through the Flame Fund is intended to supplement the budgeted and appropriated agency funding and is to be used only for purposes and in instances consistent with this section.

(g) **PROHIBITION ON OTHER TRANSFERS.**—All amounts in the Flame Fund, as well as all funds appropriated for the purpose of wildland fire suppression on Federal land, must be obligated before the Secretary concerned may transfer funds from non-fire accounts for wildland fire suppression.

(h) **ACCOUNTING AND REPORTS.**—

(1) **ACCOUNTING AND REPORTING SYSTEM.**—The Secretaries shall establish an accounting and reporting system for the Flame Fund compatible with existing National Fire Plan reporting procedures.

(2) **ANNUAL REPORT.**—The Secretaries shall submit to the Committee on Natural Resources, the Committee on Agriculture, and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Indian Affairs, and the Committee on Appropriations of the Senate an annual report on the use of the funds from the Flame Fund, together with any recommendations that the Secretaries may have to improve the administrative control and oversight of the Flame Fund.

(3) **PUBLIC AVAILABILITY.**—The annual report required by paragraph (2) shall be made available to the public.

SEC. 3. COHESIVE WILDLAND FIRE MANAGEMENT STRATEGY.

(a) **STRATEGY REQUIRED.**—Not later than one year after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall submit to Congress a report that contains a cohesive wildland fire management strategy, consistent with the recommendations contained in recent Comptroller General reports regarding this issue.

(b) **ELEMENTS OF STRATEGY.**—The strategy required by subsection (a) shall address the findings of the Comptroller General in the reports referred to in such subsection and include the following elements:

(1) A system to identify the most cost effective means for allocating fire management budget resources.

(2) An illustration of plans by the Secretary of the Interior and the Secretary of Agriculture to reinvest in non-fire programs.

(3) A description of how the Secretaries will employ appropriate management response.

(4) A system for assessing the level of risk to communities.

(5) A system to ensure that the highest priority fuels reduction projects are being funded first.

(c) **NOTICE OF PRESCRIBED FIRES.**—As part of the strategy required by subsection (a) for the Forest Service, the Secretary of Agriculture shall ensure that, before any prescribed fire is used on National Forest System land, owners of adjacent private land are notified in writing of the date and scope of the proposed prescribed fire.

SEC. 4. REVIEW OF CERTAIN WILDFIRES TO EVALUATE COST CONTAINMENT IN WILDLAND FIRE SUPPRESSION ACTIVITIES.

(a) **REVIEW REQUIRED.**—The Secretary of the Interior and the Secretary of Agriculture shall conduct a review, using independent panels, of each wildfire incident for which the Secretary concerned incurs expenses in excess of \$10,000,000.

(b) **REPORT.**—The Secretary concerned shall submit to the Committee on Natural Resources, the Committee on Agriculture, and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Indian Affairs, and the Committee on Appropriations of the Senate a report containing the results of each review conducted under subsection (a).

SEC. 5. REDUCING RISK OF WILDFIRES IN FIRE-READY COMMUNITIES.

(a) **FIRE-READY COMMUNITY DEFINED.**—In this section, the term “fire-ready community” means a community that—

- (1) is located within a priority area identified pursuant to subsection (b);
- (2) has a cooperative fire agreement that articulates the roles and responsibilities for Federal, State and local government entities in local wildfire suppression and protection;
- (3) has local codes that require fire-resistant home design and building materials;
- (4) has a community wildfire protection plan (as defined in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6502)); and
- (5) is engaged in a successful collaborative process that includes multiple interested persons representing diverse interests and is transparent and non-exclusive, such as a resource advisory committee established under section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note).

(b) **FIRE RISK MAPPING.**—As soon as is practicable after the date of the enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior (in this section referred to as the “Secretaries”) shall develop regional maps of communities most at risk of wildfire and in need of hazardous fuel treatment and maintenance. The maps shall identify priority areas for hazardous fuels reduction projects, including—

- (1) at-risk communities in fire-prone areas of the wildland-urban interface (as defined in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6502));
- (2) watersheds and municipal drinking water sources;
- (3) emergency evacuation corridors;
- (4) electricity transmission corridors; and
- (5) low-capacity or low-income communities.

(c) **LOCAL WILDLAND FIREFIGHTING CAPABILITY GRANTS.**—

(1) **GRANTS AVAILABLE.**—The Secretaries may provide cost-share grants to fire-ready communities to assist such communities in carrying activities authorized by paragraph (2).

(2) **ELIGIBLE ACTIVITIES.**—Grant funds may be used for the following:

(A) Education programs to raise awareness of homeowners and citizens about wildland fire protection practices, including FireWise or similar programs.

(B) Training programs for local firefighters on wildland firefighting techniques and approaches.

(C) Equipment acquisition to facilitate wildland fire preparedness.

(D) Implementation of a community wildfire protection plan.

(d) **WILDLAND FIRE COST-SHARE AGREEMENTS.**—In developing any wildland fire cost-share agreement with a State Forester or equivalent official, the Secretaries shall, to the greatest extent possible, encourage the State and local communities involved to become fire-ready communities.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretaries to carry out this section such sums as may be necessary.

PURPOSE OF THE BILL

The purpose of H.R. 5541 is to provide a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Federal land management agencies are facing escalating costs of fighting wildland fire, and these costs are eroding other programs and impacting the core mission of these agencies. Over the past 18 years, the Wildland Fire Management portion of the Forest Service Budget has increased from 13 percent to 48 percent. The largest component of Wildland Fire Management spending is fire suppression.

Current wildland fire suppression budgeting practice for both the Department of the Interior and the Forest Service is regulated by the 10-year fire suppression average. The 10-year average originated from an agreement between CBO, OMB, and the Committee on Budget a decade ago or more. Both the current and previous Administrations have used the 10-year average because it provides a method of budgeting for an activity that is largely unpredictable. According to the Forest Service, their annual fire suppression costs have exceeded \$1 billion in five of the past eight years, meaning that the 10-year average suppression cost figure continues to increase while the overall budget for the Forest Service has been shrinking.

The skyrocketing cost of fighting fires has forced drastic reductions in other Forest Service accounts, a trend that continues in the Fiscal Year 2009 budget request. The most significant cut this year was to State and Private Forestry, which this year's budget request cuts by 58%. The FY09 budget request proposes a 13% decrease in fire preparedness and a 4% decrease in funding for hazardous fuels treatments (\$297 million, down from \$310 million in the FY 2008 enacted level). The Healthy Forests Restoration Act of 2003 authorized \$760 million annually for hazardous fuels treatments on Forest Service and Bureau of Land Management (BLM) lands. Combined with the BLM FY 2009 budget request for hazardous fuels reduction of \$202.8 million, the total Administration request for hazardous fuels reduction on federal lands is \$499.8 million, only 65% of the level authorized by Congress.

Both the Forest Service and the Department of the Interior have had to "rob Peter to pay Paul" by borrowing funds from other agency accounts to cover these escalating costs. According to both agencies, in Fiscal Year 2008, the Forest Service spent \$741 million more than was budgeted for wildland fire suppression, and the Department of the Interior spent \$249 million more than was budgeted for wildland fire suppression.

In the case of the Forest Service, very large fires threatening people and property account for the vast majority of wildland fire suppression costs, as 2% of fires account for 80% of total expenditures.

Current and forecasted climatic conditions and demographic trends indicate that wildfire challenges will continue to increase in the coming years. While wildland fire is an important and necessary ecological process that renews the productivity of fire-adapted ecosystems, researchers are concerned that the frequency and intensity of wildfires is increasing. Also increasing are the impacts of wildland fire on people and infrastructure due to changes in the rate and location of growth across the West. A May 11, 2007 article in USA Today stated that since 2000, roughly 450,000 people—enough to populate a city the size of Atlanta—moved to rural western areas at most risk from wildfire. The article further stated that about 3.5 million people now inhabit these areas, and the population risk in high-fire areas grew 15% faster than the West as a whole. This results in significantly higher costs for wildland fire suppression activities than are currently reflected in the agency budget requests fixed by the 10-year average.

The Government Accountability Office (GAO) has found that federal land management agencies lack a cohesive wildland fire man-

agement strategy identifying the long-term options and funding needs for reducing excess vegetation, responding to wildland fire, and containing costs. The GAO has requested that the agencies complete a cohesive wildland fire management strategy for nearly a decade. In May 2006, GAO released a follow-up report (GAO-06-671R) finding that “the agencies still have not prepared a tactical plan outlining the critical steps and associated time frames for completing a cohesive wildland fire management strategy, as we recommended.”

While the Forest Service and the BLM released a document in February 2006 entitled “Protecting People and Natural Resources,” the GAO stated that the interagency document “does not identify long-term options and related funding for reducing fuels and responding to wildland fire as we called for.” The GAO then stated in testimony before the Subcommittee on National Parks, Forests, and Public Lands on June 19, 2007, that “perhaps most important[ly], without a clear vision of what they are trying to achieve and a systematic approach for achieving it, the agencies—and Congress and the American people—have little assurance that their cost-containment efforts will lead to substantial improvement”.

In a report entitled Implementation of the Healthy Forests Initiative (report no. 08601-6-AT), the USDA Inspector General also found that the Forest Service lacks a system to ensure that the highest priority fuels reduction projects are being funded first. The IG found that the Forest Service lacked a consistent analytical process for assessing the level of risk that communities faced from wildland fire and determining if a hazardous fuels project would be cost-beneficial.

H.R. 5541 has received the support of the five former Chiefs of the Forest Service, the Western Governors’ Association, the National Association of State Foresters, the National Association of Counties, members of the Rural Voices for Conservation Coalition, the National Federation of Federal Employees, the Wilderness Society, the National Parks Conservation Association, and nearly 40 other organizations.

COMMITTEE ACTION

H.R. 5541 was introduced on March 6, 2008 by Committee on Natural Resources Chairman Nick Rahall (D-WV) and is cosponsored on a bipartisan basis by more than 40 members. The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests, and Public Lands. The bill was also referred to the Committee on the Budget and the Committee on Agriculture. On April 10, 2008, the Committee on Natural Resources held a hearing on the bill.

On April 17, 2008, the Full Natural Resources Committee met to consider the bill. The Subcommittee was discharged from further consideration of the legislation. Chairman Nick Rahall (D-WV) offered an amendment in the nature of a substitute to require that annual reports on the FLAME Fund are made available to the public; to require the Secretaries of the Interior and Agriculture to conduct a review of wildland fire incidents that result in expenses greater than \$10,000,000; to require the Secretaries to notify Congress whenever funding in the FLAME Fund drops to a level esti-

mated to cover only two months' worth of expenditures; and to reduce the risk of catastrophic wildland fires to communities.

Representative Bill Sali (R-ID) offered an amendment to the amendment in the nature of a substitute that would amend the Healthy Forests Restoration Act of 2003 to legislate categorical exclusions from the National Environmental Policy Act of 1969. The Sali amendment was ruled non-germane.

Representative Henry Brown (R-SC) offered an amendment to the amendment in the nature of a substitute that would require the Secretary of Agriculture to notify private property owners in writing of prescribed fire activities. The Brown amendment was adopted by voice vote.

The amendment in the nature of a substitute offered by Chairman Rahall was then adopted by voice vote. The bill, as amended, was ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; table of contents

Section 1 cites the short title of the bill as the "Federal Land Assistance, Management and Enhancement Act", and lists a table of contents.

Section 2. FLAME Fund for catastrophic emergency wildland fire suppression activities

Section 2 of the FLAME Act as amended establishes a federal FLAME Fund for catastrophic, emergency wildland fire suppression activities. This would include federal lands managed by the Bureau of Land Management, units of the National Park System, the National Wildlife Refuge System, land held in trust by the United States for the benefit of Indian tribes or individual Indians, and National Forest System land.

The FLAME Fund would be separate from the regularly budgeted and appropriated wildland fire suppression funding and is to be used only for suppression of catastrophic, emergency wildland fires. The federal land management agencies will continue to fund anticipated and predicted wildland fire suppression activities within their annual budgets.

Section 2(c)(2) of H.R. 5541, as amended, specifically provides that amounts appropriated to the FLAME Fund annually be designated as emergency spending pursuant to congressional resolutions authorizing the designation of emergency spending. Under the bill as amended, monies for the FLAME fund will be appropriated annually by such sums as may be necessary, but it is the intent that the appropriations will be based on the average costs incurred by the federal land management agencies for emergency wildland suppression activities over the preceding five fiscal years. Section 2(c)(3) of H.R. 5541, as amended, requires the Secretaries to notify Congress any time an estimated two months of funding remains in the FLAME Fund.

Section 2(e) of H.R. 5541 as amended, provides that the Secretary of Agriculture and the Secretary of the Interior may declare catastrophic, emergency wildland fire suppression activities eligible for the FLAME fund only by issuing a Suppression Emergency Dec-

laration. The declaration shall evaluate the size, severity, and threat of the individual wildland fire incident. The FLAME Fund would be available for catastrophic emergency wildland fire suppression activities on state and private land where consistent with existing agreements by which the agencies have agreed to assume responsibility for wildland fire suppression activities on those lands.

Section 3. Cohesive wildland fire management strategy

Section 3 requires the Secretary of the Interior and the Secretary of Agriculture to submit a report to Congress one year after enactment containing a cohesive wildland fire management strategy. Section 3 requires the report to address the GAO and USDA IG recommendations by including a system identifying the most cost-effective means for allocating fire management resources, a system for assessing the level of risk to communities, an illustration of plans to re-invest in non-fire programs, a description of use of appropriate management response, and a system ensuring that the highest priority fuels reduction projects are being funded first.

Section 4. Review of certain wildfires to evaluate cost containment in wildland fire suppression activities

Section 4 requires the Secretary of the Interior and the Secretary of Agriculture to conduct a review, using independent panels, of each wildfire incident for which the Secretary concerned incurs expenses in excess of \$10,000,000 and submit the results of each review to Congress.

Section 5. Reducing risk of wildfires in fire-ready communities

Section 5(a) defines fire-ready communities as communities that are located within a priority area identified in subsection (b); have cooperative agreements that articulate roles in local wildfire suppression and protection; have local codes that require fire-resistant home design and building materials; have a community wildfire protection plan; and are engaged in a successful collaborative process.

Section 5(b) requires the Secretary of Agriculture and the Secretary of the Interior to develop regional maps of communities most at risk of wildfire and in need of hazardous fuel treatment and maintenance.

Section 5(c) authorizes the Secretaries to provide cost-share grants to fire-ready communities for education programs to raise awareness of homeowners and citizens about wildland fire protection practices; training programs for local firefighters on wildland firefighting techniques; equipment acquisition to facilitate wildland fire preparedness; and implementation of a community wildfire protection plan.

Section 5(d) states that in developing any wildland fire cost-share agreement with a State Forester or equivalent official, the Secretaries shall, to the greatest extent possible, encourage the State and local communities involved to become fire-ready communities.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on

Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. **Congressional Budget Act.** As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. **General Performance Goals and Objectives.** As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to provide a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, and for other purposes.

4. **Congressional Budget Office Cost Estimate.** Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 5541—Federal Land Assistance, Management and Enhancement Act (FLAME Act)

Summary: H.R. 5541 would establish the Federal Land Assistance, Management, and Enhancement Fund (Flame Fund) to finance some fire suppression activities managed by the Forest Service and the Bureau of Land Management (BLM). The bill also would authorize those agencies to provide grants to certain communities to improve local fire fighting capabilities. Lastly, the bill would require the agencies to submit several new reports to the Congress regarding the incidence and management of wildland fires.

CBO expects that creating the Flame Fund and authorizing appropriations to that fund for fire suppression would have no effect on the federal budget because agencies already receive appropriations under existing authorities and have permanent authority to transfer funds from other accounts to cover fire suppression costs. Implementing this legislation might change the timing of appropriations for fire suppression but not the total cost of that activity.

CBO estimates that carrying out other provisions of the bill, including new reporting requirements and grant programs, would

cost \$100 million over the 2009–2013 period, assuming appropriation of the necessary amounts. Enacting the legislation would not affect revenues or direct spending.

H.R. 5541 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5541 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

| | By fiscal year, in millions of dollars— | | | | |
|--|---|------|------|------|------|
| | 2009 | 2010 | 2011 | 2012 | 2013 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | |
| Spending for Grants and Reports: | | | | | |
| Estimated Authorization Level | 20 | 20 | 20 | 20 | 20 |
| Estimated Outlays | 12 | 18 | 20 | 25 | 25 |

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the beginning of fiscal year 2009 and that necessary amounts will be appropriated near the start of each fiscal year. Estimated outlays are based on historical spending patterns for similar activities.

Flame Fund

H.R. 5541 would establish the Flame Fund and authorize appropriations to the fund equaling the average amount obligated for fire suppression over the five preceding years. Those amounts would be in addition to annual appropriations made under existing authorities to cover the “predicted annual workload for wildland fire suppression activities.” Agencies could continue to transfer funds from other accounts to cover those costs, if necessary, after all funds specifically appropriated for suppression have been obligated.

Under current law, annual appropriations for fire suppression are typically equal to the rolling average of annual obligations for those activities over the previous 10 years. When the 10-year average is not sufficient to cover those costs, the agencies are authorized to transfer funds from any other accounts to pay suppression costs. In many years, the 10-year average has not been sufficient to cover actual costs, requiring agencies to use transfer authority. When agencies transfer funds from other accounts, they are required to reimburse those accounts when additional appropriations become available. Supplemental appropriations also may be provided.

CBO expects that the appropriation of additional funds authorized by the legislation, could result in fewer transfers from other program accounts to pay for suppression, but establishing the Flame Fund would not change the total amount spent on suppression. Although the timing of appropriations for suppression could change (if fewer supplemental appropriations would be required), this bill would not modify the total cost of suppression activities.

Grants and reporting requirements

H.R. 5541 would authorize the Secretaries to provide grants to communities in fire-prone areas near wildlands to help them en-

hance their fire fighting capability. The grants could be used to develop education programs and to purchase equipment. The bill also would require the Secretaries to submit reports to the Congress detailing how they use amounts available in the Flame Fund and the strategies they use for managing and paying for wildland fire activities.

Based on information from the Forest Service and BLM and assuming appropriation of the necessary amounts, CBO estimates that implementing those provisions would cost about \$100 million over the 2009–2013 period.

Intergovernmental and private-sector impact: H.R. 5541 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Assuming appropriation of estimated amounts, local communities would receive \$100 million over the 2009–2013 period for training and activities related to firefighting.

Estimate prepared by: Federal costs: Tyler Kruzich and Deborah Reis; Impact on state local, and tribal governments: Melissa Merrell; Impact on the private-sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 5541 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

ADDITIONAL VIEWS

We welcome efforts to address the growing problem of finding funds to pay for the suppression of wildfires on public lands. H.R. 5541 establishes a fund (Federal Land Assistance, Management, and Enhancement Fund or FLAME) for use when certain criteria are met and the cumulative suppression costs for the season exceed the annual appropriations. However, the enormous cost of suppressing wildfires is a symptom, not the cause of the problem and we strongly urge the expansion of H.R. 5541 to apply the lessons of history and the insights provided by science to improve the management of our forest and rangelands to ensure that they are healthy, biologically diverse, productive and present a reduced threat to the safety of forest communities. By limiting this debate to changes in accounts and funding mechanisms for wildfire suppression we are missing a crucial opportunity. We should couple this with meaningful reform in our forest management practices. The one thing repeated by every witness on the panels at the hearing on this bill, from both Republicans and Democrats, was the critical need to reduce hazardous fuels on our public lands. That is ultimately the only way we can truly ease the budgetary burdens of wildfires. Anything short of that just shifts the wildfire funding problem to future Congresses.

In addressing the magnitude of the fires we are facing and the ongoing increase in fire suppression costs, more must be done than just adjusting funding sources. History has shown, as the witnesses testified last week that we will continue to have larger and larger fires, until we reduce fuel-loading. This means communities in the western United States will see homes burned, watersheds damaged and even lives lost unless we do what we can to protect them and pre-empt devastating fires—the kind of pre-emption pointed to by Governor Napolitano that protected so many people and homes in the 2006 Woody Fire near Flagstaff.

During the hearing on H.R. 5541, Governor Napolitano highlighted the close relationship between pre-fire management and the costs of fire-fighting itself. As the Governor testified, the 2006 Woody Fire near Flagstaff, Arizona, was halted before it reached 100 acres because of the hazardous fuels treatments that had been done in that area. According to Governor Napolitano, those treatments dramatically minimized the fire's devastation.

Similarly, our colleague Norm Dicks testified last week about the large fuel loads that continue to accumulate. He pointed out that today we are seeing much longer fire seasons because of climate change. Congressman Dicks further commented that larger fires have resulted from the increasing tree density and fuel loads. These large fires then release enormous amounts of carbon into the atmosphere, further compounding the influence of climate change to the overall problem.

We must provide a broad range of tools, including those that allow hazardous fuels to be reduced thereby protecting communities, homes, and potentially the lives of homeowners near and in federally-managed lands.

Across the west, many communities have put the time and energy into developing Community Wildlife Protection Plans, but implementation of many of these plans has been significantly delayed, in large part, because of the NEPA process. These CWPPs, as my colleagues know, are cooperative plans, requiring community collaboration and input in the formation of the plan. By delaying treatment for the safety of communities, we permit those communities to be threatened by large fires. With this bill we should be not only providing an additional funding mechanism for wildfire suppression, but we should also be providing the tools necessary for timely treatments to protect these communities from the large and devastating fires and preserve our pristine national forests.

During the Poe Cabin fire in Idaho, in one area the fire moved some three miles in a mere 20 minutes, burning as hot as 1500 degrees Fahrenheit. In that area, several homes that had defensible space around them due to fuel reductions on private land survived the fire. One homeowner was able to get his wife out while he himself stayed just a bit longer to finish loading his truck. However, because of the fast moving and intense fire, combined with the heavy fuel-loading on federal ground, he became trapped by the fire and was unable to leave. While this could have quickly become a tragic story, this man lived and his house survived, thanks to fuel-reduction that had been done on private land around his home.

In today's climate, we cannot address funding for suppressing these large wildfires without addressing a primary cause as well—the increasing and unchecked fuel loads in our national forests that surround or are adjacent to homes and communities. H.R. 5541 only addresses one aspect of the problem—the suppression funding side—without providing real relief and dealing with the underlying problem to help prevent wildfires, or at least prevent the spread of the large and devastating fires.

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